

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

KEITH NICHOLS,

Plaintiff,

v.

Civil Action No. 2:19-cv-00563

TIMOTHY KING,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Plaintiff Keith Nichols' pro se complaint (ECF 2), filed August 2, 2019.

This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R (ECF 11) on September 20, 2021. Magistrate Judge Tinsley recommended that the court dismiss this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

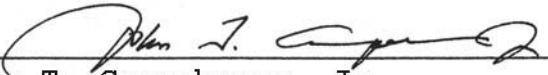
The court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. See Thomas

v. Arn, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") (Emphasis added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the court's order. See 28 U.S.C. § 636(b)(1); see also United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on October 7, 2021. No objections were filed.

Accordingly, it is ORDERED that the findings made in the PF&R (ECF 11) are ADOPTED by the court and incorporated herein. It is further ORDERED that this matter is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted and REMOVED from the docket.

The Clerk is directed to transmit copies of this order to all counsel of record and to any unrepresented parties.

ENTER: October 18, 2021

  
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John T. Copenhaver, Jr.  
Senior United States District Judge